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No policy without us: Analysing multistakeholderism in the making of media policy drafts in Nepal

ABSTRACT

Using the case of a project called Media for Peace (2010–13), funded by the Japan International Cooperation Agency (JICA) and implemented by the Ministry of Information and Communication (MoIC), Nepal, to revise media policies/laws and convert state-owned broadcasting into public service broadcasting, this article examines cultures of stakeholderism and the idea of stakeholder participation in the media policy process. It evaluates the idea of multistakeholderism critically. By analysing interviews, official documents and news reporting, the article shows that gradually a group of stakeholders, especially associations related to journalists, editors and media owners, became dominant in the post-conflict situation and political transition by using different strategies such as networking with each other, challenging, disowning and owning the policy process. This article argues that these stakeholders became dominant in the policy process by demanding for a multistakeholder process and tried to influence the policy outcome by laying claim to the writing of the policy document.

KEYWORDS

media policy
multistakeholderism
media assistance
South Asia
advocacy coalition
JICA

1. INTRODUCTION

This article examines the cultures of stakeholderism and the idea of stakeholder participation in the media policy process in an emerging democratic state, Nepal. It provides an account of the preparation of the drafts of Media Policy 2012–13 as part of a three-year-long (December 2010 to October 2013) project called ‘The Project for Promoting Peace Building and Democratization through the Capacity Development of the Media Sector in Nepal’, run by the Ministry of Information and Communications (MoIC) and funded by Japan International Cooperation Agency (JICA).

The academic discussion in the field of media policy is often focused on the promises and challenges of the participation of stakeholders in the policy process. Though the concept of stakeholders and related theory became popular in business studies, it has been used in other disciplines such as health, development and policy studies (Brugha and Varvasovszky 2000). In the context of business studies, the term ‘stakeholder’ refers to individuals and groups that can be affected by decisions of firms (Freeman 1984). In his study of media and communication, Freedman (2006) states that the participation of stakeholders having multiple interests has crowded the policy process. On the one hand, different stakeholders who otherwise do not have space in the policy process get a chance to be heard and address their concerns. However, on the other hand, even though there are multiple actors who participate in the process, the policies often reflect the interests of private companies (Freedman 2006; Freedman 2008). The significance given to managerial actors of the firm within stakeholder theory has often resulted in calls for a need for decentring the firm in the hierarchy of stakeholders with a push for the idea of multiple stakeholders (Calton and Kurland 1996). Even though scholars believe that there is no one-size-fits-all kind of definition of the multistakeholder process, yet Hemmati (2002: 19) has discussed some features, such as bringing together all major stakeholders in dialogues or communication on issues and ‘equitable representation of three or more stakeholder groups’. Though multistakeholder processes are regularly used in intergovernmental forums such as the *Earth Rio 2* in 1992, it has also been employed in national and local levels (Hemmati 2002). In the field of media and communications, it was the *World Summit on the Information Society (WSIS)* in Geneva (2003) and Tunis (2005) that brought the debate about multistakeholderism to the fore. Scholars have discussed both the positive and negative aspects of multistakeholderism in these summits. For instance, Padovani (2005) argues that, whereas multistakeholder dialogues help to tackle complex problems and to have effective policy-making as groups with different interests participate, they raise questions of legitimacy of stakeholders. Similarly, Paula Chakravartty (2006) points out limitations of multistakeholderism from the perspectives of increasing roles of civil society organizations and overshadowing of claims of redistribution from the feminist perspective. Researchers have found that very often the interests of legacy media are preserved and commercial media can serve their interests through informal lobbying in the process (Donders et al. 2019).

However, it is important to note that the existing scholarship on multistakeholderism in media policy often is based on empirical data from the Global North. This article critically evaluates critical perspectives on multistakeholderism with media policy-making in Nepal. Despite the popularity

of using stakeholder analysis as a method of doing research, some scholars have shown its limitations. For example, Van den Bulck and Donders (2014) have highlighted the lack of priority given to non-institutional actors, difficulty in including all relevant stakeholders and redundancy of issue-based analysis of stakeholders. Due to these limitations, these scholars have proposed that it is better to also use the framework of advocacy coalition to understand 'shared belief systems' that lead to policy outcomes. Such a focus on stakeholders and advocacy coalition framework analysis allows researchers to identify not only the actors in the policy process but also how the process leads to certain policy outcomes or how certain coalitions become dominant (Van den Bulck 2019). So, this article also studies the formation of a coalition of stakeholders. It examines the processes and strategies through which a group of stakeholders representing journalists and media owners become dominant in an emerging democratic state. Dominant stakeholders are understood in this article as those actors who participated in the writing of the drafts of media policies. Upon carefully tracing the participation of relevant stakeholders through interviews with people representing different groups, news content, official documents of the project, this article argues that the media stakeholder groups became dominant by using different strategies and by forming advocacy coalitions. Besides studying published and unpublished documents, ten recorded and two unrecorded interviews with people representing different stakeholders were conducted to know their positions and strategies during the policy process. Ethical protocol of interviewee anonymization was followed, especially when the participants made their preferences clear. Having said this, many of the official documents prepared during projects such as work plans, completion reports and reports on the dissemination of media documents were not available during this research, despite continuous efforts.

Having outlined the theoretical frameworks in this section, this article will further present the case by analysing stakeholder participation in the project in four phases starting with the sidelining of the dominant stakeholders to the inclusion of this same group. In the first phase, the ministry did not take the request for the inclusion of more representatives from the dominant stakeholders seriously. In the second phase, these groups obstructed the policy process. In the third phase, some members representing a few stakeholders participated in consultation. In the final phase, many members from dominant stakeholders actively participated in the policy process and wrote the drafts of the policy, and media laws. After outlining the four phases, the article will briefly reflect on the implications of Nepal's case for multistakeholder policy processes.

2. MEDIA FOR PEACE PROJECT: A CASE

In 2010, the MoIC conceptualized the Media for Peace (MeP) project to promote democracy in Nepal by revising existing media policies/laws and strengthening broadcasting media. As JICA had already been providing infrastructural support to Radio Nepal for many years (Adhikari 2009), the Japanese organization agreed to support the MoIC in converting the state-owned broadcaster to a BBC-modelled public service broadcaster (PSB). This task meant a significant shift in the role of JICA from providing sole infrastructural support like it had for Radio Nepal and Nepal Television to one where it

was expected to provide policy expertise. However, a senior programme officer of JICA stated that the lack of a legal guideline for the conversion of Radio Nepal and Nepal Television into a PSB highlighted the need to first develop the required laws, which consequently led to the revision of the overall media policy in Nepal (Gopal Gurung, personal interview, 24 December 2013).

It is important to mention that the politics aside, for a country like Nepal, which is highly dependent on foreign aid, the ministry's seeking of assistance from JICA is not out of ordinary. In the field of media assistance, international donors have been supporting state actors or civil society organizations through technical assistance to reform legal and regulatory mechanisms. These donors support executive and legislative bodies to draft new policies and civil society organizations (CSOs) to conduct independent analyses of media laws and policies to create enabling environment for media (Kumar 2006a). In the case of this project, the support was given as media assistance for strengthening democracy in Nepal. Such assistance is officially presented as the promotion of democratic societies and building independent media (Price 2002; Kumar 2006a, 2006b). By 2009, the five top donor countries in the field of providing such media assistance were the United States, Germany, France, the United Kingdom and Japan. In October 2008, JICA became the main executive agency of the official development assistance of Japan, and by 2009, it was providing aid grants to improve governance and strengthen civil society in aspects like media infrastructure (Myers 2009).

2.1 Participation of key stakeholders

In the first stage of the policy process, which covers the period from the conception of the project to public release of a draft of media policy in December 2011, a task force was constituted in which representatives of the MoIC and the JICA experts (often Japanese) were prominent. The Japanese experts were expected to provide technical support based on practices in other countries. The task force also included one representative each from the Press Council of Nepal and one from the Federation of Nepali Journalists (FNJ), the umbrella organization of journalists. Amidst raging discontent related to the lack of participation of stakeholders in the policy-making process, the task force prepared multiple drafts of the policy that was released publicly in January 2012.

The ministry seemed to have an ambiguous attitude towards including stakeholders in the policy-making process. In response to FNJ representatives' protest over non-inclusion of stakeholders in the process that was expressed through non-participation and an official letter, the ministry refused to recognize NGOs as a relevant stakeholder. (Govinda Acharya, personal interview, 21 June 2014). However, at a later point the ministry made an effort to invite different stakeholders to participate in the programme on 20 April 2011 (JICA 2011), which however waned over time leading to a second withdrawal by FNJ. During this programme as well, there were calls for more stakeholder participation from other participants as well, including the chair of Broadcasting Association of Nepal (BAN) (Bishnu Hari Dhakal, personal interview, 12 June 2014). However, curiously, news coverage of the programme did not report of any such demands (Anon. 2011a, 2011b).

The ambiguity of the ministry is further reflected in the inception report prepared in December 2010, which stated that the ministry would conduct a stakeholder consultation in each stage (MoIC et al. 2010). The stakeholder

analysis that the ministry conducted identified FNJ as an important stakeholder. Brugha and Varvasovszky (2000) have identified stakeholder analysis as a useful tool to manage stakeholders and to create opportunities to mobilize them to fulfil the goals. However, scholars have argued that stakeholder is a vague term leading to multiple contestations (Miles 2012). Stakeholders have been differentiated into primary and secondary stakeholders, or active and passive stakeholders (Miles 2017). In business studies literature, primary stakeholders are those who are organized, are officially recognized and have direct economic relations with organizations; secondary stakeholders are those who are diverse and have indirect economic relation with organizations (Savage et al. 1991). Though these concepts come from business studies, where a firm is at the centre, they can be applied in the case study of the MeP project. These two kinds of stakeholders help us to understand the stakeholder analysis that the ministry did based on the stakes and influences of stakeholders. In the first phase of the project, the ministry had included FNJ as the primary stakeholder and others as secondary stakeholders. This was because FNJ had high stakes and was better organized and less politicized in comparison to other media stakeholders, especially other journalists' associations affiliated to different political parties. Thus, the ministry included an FNJ representative in the task force that was responsible for drafting the policy. It was hoped that the comments of secondary stakeholders, such as other journalists' associations and audience, would be collected after the policy draft was made public. In this phase, the ministry led the policy process with primary involvement of two stakeholder groups – ministry and JICA – with little consideration for multistakeholder participation as FNJ demanded.

2.2 'Disruptions' in the policy process

In the second phase, the ministry released the third draft of the policy (MoIC 2012) on its website seeking comments and selected Equal Access Nepal, an NGO, to manage the consultation with other stakeholders in December 2011. It is clear that the ministry had not anticipated the issues that would arise due to the prominent presence of the NGO in the consultation process. This negligence led to significant disgruntlement amongst members of professional organizations related to media like BAN, Association of Community Radio Broadcasters Nepal (ACORAB), Revolutionary Journalists' Association, Nepal Press Union and Press Chautari. They also garnered international support from actors who visited Nepal during the period as part of an international media mission. The advertisements that Equal Access released in daily newspapers and radio stations to solicit suggestions from the public for the purpose were considered an affront as they expected a more personalized and active involvement in the process of policy-making (Bishnu Hari Dhakal, personal interview, 12 June 2014). In this manner, the role of Equal Access in this process also came under scrutiny, which precipitated an alliance of these professional organizations against Equal Access and the project.

This alliance that came together in opposition to Equal Access created significant disruptions of stakeholder consultations that the organizations conducted, especially in Biratnagar and Kathmandu. This was rooted in the perception of media stakeholders that the ministry gave more priority to Equal Access and JICA instead of them as local stakeholders (Acharya 2013). News reports like the one in Nepal Monitor (2012) further exacerbated this sentiment when it reported that the draft policy was prepared by the media NGO Equal

Access with support from the MeP project of JICA and the Government of Nepal. Despite clarification from both JICA and the ministry about the lack of any role of Equal Access in drafting the policy, the disruptions of these consultations continued. The media members boycotted these programmes, and the Kathmandu Chapter of Press Chautari Nepal, a journalists' association affiliated to a leftist party, organized a parallel programme titled 'Proposed Media Policy and Stakeholders' Responsibility' on 8 January 2012 to coincide with the final day of the consultation organized by Equal Access in Kathmandu. The primary purpose of such a programme was to present a united opposition to JICA and to the ministry.

The news coverage and articles on the project suggest that certain aspects of the project and the policy process resulted in its failure. These aspects include the faulty process (RSS 2012; Anon. 2012d), poor timing (Bemausamko Baja) (Anon. 2012a, 2012g; Acharya 2012; RSS 2012) and foreign-made policy (Anon. 2012c, 2012f). The process was called faulty due to its exclusion of other stakeholders especially the members of professional media organizations. These stakeholders accused the ministry and JICA of not creating processes to consult them while writing the draft. Second, the timing of introducing such a policy was also criticized given that the country was being governed by an interim constitution at the time. Finally, there was a sentiment that the foreign stakeholders occupied more space in the policy-making process. Notably, even the Minister for Information and Communications, Jay Prakash Prasad Gupta, stated that foreign countries could not formulate a media policy (RSS 2012; Anon. 2012e). Similarly, the President of the Nepal Workers Peasants Party, Narayan Man Bijukche, termed the process an instance of 'neo-colonialism' during a programme organized by Bhaktapur chapter of FNJ (Anon. 2012h).

The disgruntled members further boycotted another programme that JICA had organized in January 2012 in Kathmandu to share the findings of three consultation meetings, citing similar reasons stated above, that the draft was untimely and improper without the inclusion of stakeholders (Anon. 2012b). Such opinions were also echoed by international actors such as the International Fact Finding and Advocacy Media Mission that recommended that the policy process be restarted to ensure 'a broad and inclusive consultation involving all interested stakeholders, with a view to finalising the policy only after the new Constitution has been ratified' (International Media Mission 2012: 24).

Often stakeholders use different strategies to put pressure and to voice their concerns. Such strategies vary from providing constructive feedback, making alliances with other stakeholders and boycotting the products (Friedman and Mile 2006). In his analysis of a policy process in Thailand, Wognruijra (2008) pointed out that the stakeholders tried to influence a policy decision related to a broadcasting policy reform by putting pressure directly and indirectly through petitions, lobbying and so on. In the case of Nepal, these stakeholders not only obstructed the consultation meetings organized by the ministry but also organized a parallel programme and issued several press releases to alert the public of their grievances.

Stakeholders found the role of JICA suspicious as the draft of the policy had proposed to reform the media sector. It intended to allow 49 per cent foreign direct investment in media to the neglect of online media (Kumar and Ghimire 2012) and to end the support to media through welfare advertisements (MoIC 2012). Since media companies were receiving money as public welfare advertisements (Maharjan 2014), media stakeholders were not happy

to discover that the policy proposed to abolish the support. Moreover, they also did not agree with the proposal to allow foreign direct investment in all media sectors. The existing policy on this matter, which is the Long-Term Policy of Information and Communication Sector 2003 (HMG 2003), had barred such investment in print media and allowed 25 per cent in broadcasting sector. In the literature of media assistance, it has been pointed out that donors do often force economically weak recipients to liberalize in media policy (Harcoat cited in Paterson et al. 2018). It was from this standpoint that the stakeholders perceived it as the interference of JICA. Many stakeholders thought that the policy was made to control the media sector (Jha 2012) and they had concerns that the policy aimed to shrink the media freedom guaranteed in the interim constitution (Mahendra Bista, personal interview, 9 February 2014).

2.3 Backtrackings and newer coalitions

In the third phase of the project, bowing to pressure faced from different sources, including the minister and the International Media Mission, the representatives of JICA and the ministry agreed to rewrite the draft policy. The revision also included suggestions collected in consultations to include more stakeholders in the policy process (Shiva Gaunle, personal interview, 8 July 2014). FNJ participated actively in this phase and some members of the federation were also recruited as experts in the process.

The ministry started a second level of consultation meetings in three places, such as Nepalgunj, Lalitpur and Birtamode, with the help of another NGO, Watchdog Media Services Pvt Ltd. However, the involvement of the NGO was not highlighted following the past lesson learnt in the case of Equal Access (a participant, personal interview, June 2019). The official documents of this phase of consultations show that the issue of the participation of other stakeholders, as seen in the previous phases, was not raised, while the participants discussed the provisions of the draft. The relative calm in this phase can be attributed to the fact that the FNJ, which has the largest number of journalists as members, participated in the process. Second, the reports (RSS 2013) may also have omitted any mention of any dissatisfaction of the process that the participants may have expressed.

The representatives of JICA and the ministry had assumed that FNJ's participation in the process would placate the stakeholders. However, participants like the chair of BAN and ACORAB in another consultation meeting in Nagarkot once again registered their dissatisfaction about the lack of enough stakeholder participation. Consequently, based on a consensus amongst the stakeholders, it was agreed that a consulting committee of stakeholders would be formed on the initiation of the ministry (JICA 2013).

BAN had built new coalitions in this phase with bodes like Television Broadcasters' Nepal (TBN) and Nepal Media Society (NMS) that had not maintained any public stand on the policy process until the second phase (Bishnu Hari Dhakal, personal interview, 12 June 2014). It is obvious that the interests of FNJ and BAN differ as the former is predominately the federation of journalists, whereas the latter is the association of radio owners. The new coalition was formed because BAN was unhappy with the way FNJ supported and participated in the activities of the ministry. Sabatier (1988) showed that the advocacy coalitions of elites change according to changing belief systems. In this phase, the previous coalition that BAN had formed had not worked in their favour due to which it started to build a new coalition of media owners

with TBN and NMS. In this manner, they wanted to make sure their interests as media owners were taken care of in the policy.

2.4 Multistakeholder process, unilateral power

The repeated protests against the policy process led to the creation of a multi-stakeholder committee under the coordination of Shiva Gaunle, president of FNJ, on 13 June 2013. This committee had representatives of almost all professional organizations of journalists and media entrepreneurs. The chair of BAN said, '[w]e were given the mandate to prepare a plan based on suggestions provided to the draft and that was the mandate we were waiting for. So we owned it' (Bishnu Hari Dhakal, personal interview, 12 June 2014). It was also decided in the Nagarkot meeting that the committee would be 'sovereign' in the sense that it did not have any interference of JICA. Thereafter, as it would be difficult to work in a larger body, a working committee of five members was formed under the coordination of Suresh Acharya. He was appointed in the committee as an expert.

The main job of the smaller committee was to review the draft for which they worked intensively for about two months and also sought help from experts in the sectors like advertisement, film, online media and broadcasting (Gaunle et al. 2013). The smaller committee had to present the content it had finalized to the bigger committee for approval.

Despite the clash of interests among the five members of the committee, they had to arrive at a compromise. Due to this clash, one participant thought that they had to invest the whole day on 'insignificant issues' (personal interview, January 2014). A member of the small committee said, 'I participated in the meeting every day, because I was afraid that the committee might pass something against our interests' (Bishnu Hari Dhakal, personal interview, 12 June 2014). It was difficult to forge consensus among the nine organizations. On 2 October 2013, the bigger team submitted to the ministry its report, including five laws related to broadcasting, press and publication, advertisement, public service broadcasting and media commission. JICA and NMS/TBN also submitted their reports to the ministry separately. There was a conflict despite claims of owning the process, as a member of the working committee informed the author that they were not aware that NMS/TBN had submitted a different report. Thus, the main report (Gaunle et al. 2013) submitted by the bigger team also contained a 'note of dissent' of the TBN and NMS. Here JICA was ushered in to give its opinion based on international practices (Govinda Acharya, personal interview, 21 June 2014).

The comparison of the media policy drafts 2012 and 2013 clearly shows that the main differences arose on issues related to ownership. The report JICA submitted suggested to the government that broadcasting licenses should be awarded for ten years only, while the report submitted by the multistakeholder committee had suggested increasing this period to twenty years. JICA was following international best practice that no individual or a group or an organization is allowed to own more than 25 percent share in national media (a participant, personal interview, January 2014). This is expectedly based on the problems and threats that media concentration can create for democracy by creating very powerful media organizations that can control national discourse (Baker 2006). The coalition of media owners expectedly objected to this recommendation and requested the government for a yearly renewal of license. They also suggested abrogating the provision of media concentration

that bars an individual, a group and an organization from having sole ownership in a national media or owning more than 50 per cent in another national media. One can surmise that the owners had a shared belief system of libertarianism wherein they believed that competition would be the best judge in the market and that there should be no interference of the state in it (Siebert et al. 1956).

Very often governments or facilitators do not accept the issues raised by stakeholders (Hemmati 2002). So the impact of multistakeholder process on the policy outcome cannot be clearly identified (Cammaerts 2011). An independent evaluator of this project pointed out that the ministry had not taken over the media policy made during the project because of the 'frequent changes of personnel for the minister and secretary, etc. which impacted on the handover of the revised media policy' (Takahashi 2016: 28).

Studies have shown that there are 'power gaps' during multistakeholder processes. There are also different levels of participation because for some stakeholder groups the process of participation is costly (Flew and Lim 2019). A study has pointed out that the power of media stakeholders to influence the outcome of policy process in Nepal has increased and this manifested in their economic interests in the post-conflict situation (Acharya 2013). Thus, even in this case study, the reins of the process were taken over by dominant stakeholders who used multiple strategies to get their way in the policy-making process. However, one cannot really conclude whether it actually led to some viable effect on the final policy because it is the parliament that approves policies at the end.

CONCLUSION

This case shows that the dominant stakeholders created a situation where the policy drafts could not be made without them taking the reins of the policy process in an emerging democratic state. The case demonstrates how multistakeholderism translates into the emergence of a dominant group using different strategies such as contestation, boycott, coalition and active participation. By demanding for a multistakeholder process, the media-related stakeholder group took over the policy process. They acted by believing that their interests would be served only if they were allowed to write the drafts of policy. However, even after they were able to own the policy process, these stakeholder groups had contention on policy options that manifested in different coalitions according to different belief systems. The role of the state just becomes that of a facilitator in the whole process. In this vacuum, the international actor had to put forth alternative policy directions to safeguard the public interest. In the post-conflict situation, the ministry did not take up the policy.

The case highlights the uneven distribution of power among stakeholders. In the name of multistakeholderism, often organized stakeholders with sufficient power to influence the policy process are included. Often these stakeholders are civil society organizations, mainly associations of journalists affiliated to political parties, and they have influence due to this connection. It means using their political connection they can pressure the state to include them in policy processes. The committee formed at the end of the project shows that there was significant participation of stakeholders such as journalists/editors/media owners and general public did not get a chance to participate in the policy process, as Freedman (2015) has argued.

It should not be forgotten that this case is about making policy drafts through a donor-funded project and it does not mean that the state would have ratified the draft of the policy right away. Often such drafts are discussed in the parliament and then are ratified as policies. However, this case clearly shows that stakeholder participation translated into the making of the condition where policies cannot be made without the participation of the dominant stakeholders having diverse positions.

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